

The Honorable Paul B. Snyder

Chapter 13

Hearing Date: Thursday, January 19, 2017

Hearing Location: Tacoma, Courtroom H

Hearing Time: 1:00 p.m.

Response Date: January 12, 2017

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON**

In re:

RICHARD LOUIS NELSON,

DEBTOR

No.: 16-44597-PBS

(Chapter 13)

**DECLARATION OF POMAIKAI LLC IN
SUPPORT OF MOTION FOR RELIEF
FROM AUTOMATIC STAY**

I, Jason Carl, declare the following to be true and correct under penalty of perjury under the laws of the State of Washington and the United States.

I have read all pleadings and the Motion for Relief from Automatic Stay that was filed on December 27, 2016, know the contents thereof, and that all factual assertions are true and correct. Specifically that:

1. I am over 18 years of age, am competent to testify to the statements herein and make the statements herein based on facts personally known to me.
2. I am a member of Pomaikai LLC, the moving party.
3. On November 4, 2016, I purchased at a Trustee Sale for \$205,000.00 the property commonly known as 18718 95th St E, Bonney Lake, WA 98391.
4. The Trustee's Deed was recorded in Pierce County, Washington on November 16, 2016, under recording no. 201611160222. A true and correct copy of the Trustee's Deed is attached as Exhibit 1.

1 5. The twentieth day following the sale was November 24, 2016. More than twenty days
2 have passed since the trustee's sale.

3 6. Under Washington law, the previous owner must vacate within the twenty days
4 following the trustee's sale, and if they do not vacate, the purchaser may begin eviction
5 proceedings.

6 7. After purchasing the property, I discovered the Debtor was in bankruptcy.

7 8. This chapter 13 case has delayed my ability to make productive use of my property.

8 9. I am incurring significant financing charges for the property. The longer that Debtor
9 delays this process, the more costs I will incur, and the longer I will be unable to use my
10 property.

11 I SWEAR UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF
12 WASHINGTON AND THE UNITED STATES THAT THE FOREGOING IS TRUE AND
13 CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF

14 Signed this 27th day of December, 2016.

16
17 /s/ Jason Carl

Pomaikai LLC

18 Movant

Exhibit 1
 201611160222 RJOHNSO 2 PGS
 11/16/2016 10:11:42 AM \$74.00
 AUDITOR, Pierce County, WASHINGTON

RECORDING REQUESTED BY:

WHEN RECORDED MAIL DEED
 AND TAX STATEMENT TO:

EASTSIDE FUNDING LLC
 3933 LAKE WASHINGTON BLVD NE SUITE 100
 KIRKLAND, WA 98033

TS No: WA07000105-15-1

APN 4900000080

TO No.: 150055782-WA-MSI

TRUSTEE'S DEED UPON SALE

THE GRANTOR, MTC Financial Inc. dba Trustee Corps, as present Trustee under that Deed of Trust, as hereinafter particularly described, in consideration of the premises and payment recited below, hereby grants and conveys, without warranty to **POMAIKAI LLC AND EASTSIDE FUNDING LLC FOR SECURITY PURPOSES ONLY**, GRANTEE, that real property, situated in the County of Pierce, State of Washington, described as follows:

LOT 8, KELLY CREEK ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 18 OF PLATS, PAGE 97, RECORDS OF PIERCE COUNTY, WASHINGTON. SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

APN: 4900000080

RECITALS:

1. This conveyance is made pursuant to the powers, including the power of sale, conferred upon said Trustee by that certain Deed of Trust dated July 23, 2012, executed by RICHARD L. NELSON, JR. AN UNMARRIED MAN AS HIS SEPARATE ESTATE, as Grantor, to STEWART TITLE COMPANY, as Trustee, in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"), as designated nominee for PINNACLE CAPITAL MORTGAGE CORPORATION, Beneficiary of the security instrument, its successors and assigns, recorded on July 31, 2012, as Instrument No. 201207311246, and that said Deed of Trust was modified by Modification Agreement and recorded on May 9, 2014 as Instrument Number 201405090038 of official records in the Office of the County Auditor of Pierce County, Washington.
2. Said Deed of Trust was executed to secure, together with other undertakings, the payment of one Promissory Note in the sum of \$201,188.00 with interest thereon, according to the terms thereof, in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. as nominee for PINNACLE CAPITAL MORTGAGE CORPORATION, as original Beneficiary and to secure any other sums of money which might become due and payable under the terms of said Deed of Trust.
3. The described Deed of Trust provides that the real property conveyed therein is not used principally for agricultural or farming purposes.
4. Default having occurred in the obligations secured and/or covenants of the Grantor, as set forth in Notice of Trustee's Sale described below, which by the terms of the Deed of Trust make operative the power to sell, the thirty-day advance Notice of Default was transmitted to the Grantor, or his successor in interest, and a copy of said Notice was posted or served in accordance with law.
5. PennyMac Loan Services, LLC, being then the holder of the indebtedness secured by said Deed of Trust, delivered to said Trustee a written request directing said Trustee or his authorized agent to sell the described property in accordance with law and the terms of said Deed of Trust.
6. The defaults specified in the "Notice of Default" not having been cured, the Trustee, in compliance with the terms of said Deed of Trust, a "Notice of Trustee's Sale" of said property recorded on July 5, 2016 as Auditor's

11/16/2016 10:11:42 AM RJOHNSO 4415873 2 PGS
 EXCISE COLLECTED: \$0.00 PROC FEE: \$5.00
 AUDITOR
 Pierce County, WASHINGTON TECH FEE: \$5.00

For reference only, not for re-sale.

Exhibit 1

File No. 201607050663 in the Office of the Auditor of Pierce County, Washington.

7. The Trustee, in its aforesaid "Notice of Trustee's Sale," fixed the place of sale as at the Second Floor Entry Plaza Outside Pierce County Courthouse, 930 Tacoma Ave South, Tacoma, WA, a public place, on November 4, 2016 at 10:00 AM, and in accordance with law caused copies of the statutory "Notice of Trustee's Sale" to be transmitted by mail to all persons entitled thereto and either posted or served prior to 90 days before the sale; further, the Trustee caused a copy of said "Notice of Trustee's Sale" to be published once between the thirty-fifth and twenty-eighth day before the date of sale, and once between the fourteenth and seventh day before the date of sale in a legal newspaper in each county in which the property or any part thereof is situated; and further, included in this Notice, which was transmitted to or served upon the Grantor or his successor in interest, a "Notice of Foreclosure" in substantially the statutory form.

8. During foreclosure, no action was pending on an obligation secured by said Deed of Trust.

9. All legal requirements and all provisions of said Deed of Trust have been complied with, as to acts to be performed and notices to be given, as provided in Chapter 61.24 RCW.

10. The defaults specified in the "Notice of Trustee's Sale" not having been cured eleven days prior to the date of Trustee's Sale and said obligations secured by said Deed of Trust remaining unpaid, on November 4, 2016, the date of sale, which was not less than 190 days from the date of default in the obligation secured, the Trustee then and there sold at public auction to said Grantee, the highest bidder therefore, the property hereinabove described, for the sum of \$205,000.00, by the satisfaction in full of the obligation then secured by said Deed of Trust, together with all fees, costs and expenses as provided by statute.

Dated: November 10, 2016

**MTC Financial Inc. dba Trustee Corps, as Duly Appointed
Successor Trustee**

By: Alan Burton, Vice President

STATE OF WASHINGTON
COUNTY OF KING

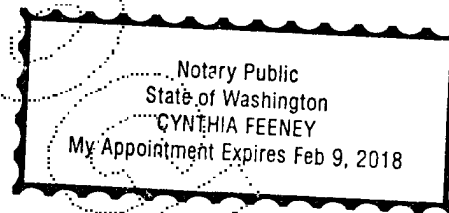
I certify that I know or have satisfactory evidence that ALAN BURTON is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the **Vice President for MTC Financial Inc. DBA Trustee Corps** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 11-10-16

Cynthia Feeney
Notary Public in and for the State of Washington

Residing at King County

My Commission expires Feb 9, 2018



For reference only, not for re-sale.